



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

not liable until damage had been suffered by the compulsory payment of the note or execution thereon; however, the Court held that the breach of contract was complete and awarded as damages the full amount of the note. *Kohler v. Matlage*, 72 N. Y. 259; *Redfield v. Haight*, 27 Conn. 31. Mere insolvency of the maker does not necessarily render a note valueless. It was objected that the plaintiff might collect the judgment from the defendant and then not pay the note; but the Court said this danger might be averted by equitable counter-claim and cited with approval *Loosemore v. Radford*, 9 M. & W. 659, and *Johnson v. Britton*, 23 Ind. 105.

**CRIMINAL LAW—EVIDENCE—COMPETENCY OF DIVORCED WIFE TO TESTIFY AGAINST HUSBAND.**—*STATE V. KODAT*, 59 S. W. 73 (Mo.).—The defendant was indicted for a criminal assault upon a third person. Between the time of the assault and the trial the defendant's wife had obtained a divorce. At the trial the divorced wife testified against the defendant. Held, that such evidence was incompetent.

This decision seems at variance with the prevailing tendency of modern decisions. At common law, a husband or wife could not, with few exceptions, testify against the other in any legal proceedings. This being the case, the severance of the marriage relation would not remove the disqualification, and it was upon this ground that the decision was based. *State v. Raby*, 28 S. E. 490 (N. C.); *State v. Phelps*, 2 Fyler 374. The disqualification, however, now is generally restricted to confidential communications. The important consideration is the public convenience of getting at the truth in all cases. *Appeal of Robb*, 98 Pa. St. 501; *Westerman v. Westerman*, 25 Ohio St. 500; *Shouler, Husband and Wife*, 85.

**DIFFERENCE BETWEEN CONDITIONS AND TERMS OF A WRITTEN INSTRUMENT—PAROL EVIDENCE AS TO EACH.**—*GALE MFG. CO. v. FINKELSTEIN*, 59 S. W. 571 (Tex.).—The defendant gave the plaintiff's agent an unambiguous order for goods, in writing. Defendant offered evidence of a parol contemporaneous agreement, that the order should be sent by the agent to the plaintiff, and if not accepted and the defendant notified within thirty days, it was to be considered cancelled. The trial court admitted the parol evidence, over the defendant's objection, but the appellate court held, it was error to admit it as varying the terms of a writing by parol.

The appellate court fails to consider the distinction between the *conditions* and the *terms* of a written instrument. The condition on which an instrument is to become binding may always be shown by parol. In *McFarland v. Sikes*, 7 Atl. 408, the Supreme Court of Connecticut held parol evidence admissible to show that the condition of a promissory note was that defendant should appear before a grand juror on a certain day. The note was absolute on its face. The Court held that the defendant's appearance was not a term of the contract, but a condition. So here, the ratification and notice to defendant was a condition, the performance of which gave the contract life, the non-performance of which in thirty days rendered it a nullity. This rule and the distinction is recognized in *Benton v. Martin*, 52 N. Y. 570; *Watson v. Bowers*, 119 Mass. 383; *Sweet v. Stevens*, 1 R. I. 375; *Schindler v. Mulheiser*, 45 Ct. 153; *Westman v. Krinnweide*, 15 N. W. 255; and others.

**DIVORCE—ALIMONY—FOREIGN JUDGMENTS—RES JUDICATA.**—*ARRINGTON V. ARRINGTON*, 37 S. E. 212 (N. C.).—Held, under Federal Constitution (Art. 4, Sec. 1), declaring that full faith and credit shall be given in each State to the judicial proceedings of other States, a judgment for divorce, granting alimony, is *res judicata* and binding on the parties, and, when sued on, defendant cannot plead to the merits in the original action.